MSK.P-042

BEFORE THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Nikoloich-Zugic et al.		
Serial No.:	09/719,494	Examiner:	M. DiBrino
Filed:	December 12, 2000	Art Unit:	1644
For:	VACCINATION STRATEGY TO PREVENT AND TREAT CANCERS		

RESPONSE TO COMMUNICATION

Responsive to the Communication mailed January 10, 2003 for the above-captioned application, Applicants enclose a corrected copy of the Response to Restriction Requirement and request that this response and amendment be entered in place of the paper previously filed. The original amendment contained a typographical error in the claims. Claim 4 should read "8 to 14 amino acids" as in the original claim.

An extension of time sufficient to make this paper timely is requested and the fee is enclosed. The Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 15-0610.

Respectfully submitted,

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Attorney for Applicant

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Enclosure

I hereby certify that this paper and any attachments named herein are being deposited with the US Postal Service as first-class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, DC 20231 on February 11, 2003.

Marina T. Larson, PTO Reg. No. 32,038

February 11, 2003
Date of Signature

15/C
ES/3-14-03

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	Nikolich-Zugich, et al.	Conf. No.:	2225
Serial No.:	09/719,494	Examiner:	DiBrino
Filing Date:	December 13, 2000	Art Unit:	1644
For :	Vaccination Strategy to Prevent and Treat Cancers		

RESPONSE TO RESTRICTION REQUIREMENT

Asst. Commissioner for Patents
Washington, D.C. 20231

Responsive to the Restriction Requirement mailed October 2, 2002 for the above-captioned application, please amend the application as follows:

In the claims:

C1

4. (Amended) The method of claim 3, wherein the target peptide and the immunogenic portion of the therapeutic antigen each consist of from 8 to 14 amino acids.

6/11/99

REMARKS

Claim 4 has been amended to correct a typographical error in the dependency of the claim.

Responsive to the Restriction Requirement mailed October 2, 2002 for the above-captioned application, Applicants hereby elect the claims of Group I, Claims 1-4, 9 and 11-16, **with traverse**. Applicants further elect gp75 and the sequence of Seq. ID. No. 12, but traverse the requirement for an election of species. Applicants further submit that claims 7 and 8 should be included in this group, since they encompass both peptide and nucleic acid antigens. Claims 1-4, 7-9, and 11-14 read on the elected species.

As a first matter, it is noted that the Examiner's justification for asserted lack of unity is the Bakker reference which the Examiner asserts teaches "an immunogenic class I MHC-binding peptide derived from a **weakly immunogenic target peptide**." The Examiner has provided neither evidence not reasoning, however, to support this characterization of the reference and of gp100 as a weakly immunogenic peptide. gp100 is an inherently immunogenic peptide, and is not a weakly immunogenic peptide within the meaning of this application.

Weakly immunogenic does not mean merely that the epitope can be improved, which is all that Bakker is doing. It means, as stated in the present specification, that the unmodified antigen "is unable to induce activation and differentiation of effector CTL's." (Page 3, lines 19-20). This is an important group of antigens, because as a result of their weak immunogenicity, they do not induce tolerance in the immune system. Thus, because there is no tolerance to break, they are suitable targets for anti-tumor vaccination.

For this reason, Applicants submit that the restriction based on lack of unity is in error, because the teachings of the cited art do not render any of the claims unpatentable. Furthermore, the basis for this requirement is a section of the statute which is not applicable to PCT National Phase applications which are governed by the Unity of Invention Standard and not the restriction requirement. Reconsideration of the restriction requirement is respectfully requested.

For the foregoing reasons, Applicants submit that the restriction requirement in this instance should be withdrawn, and that all of the claims should be examined.

Respectfully submitted,

Marina T. Larson

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MARKED UP COPY OF AMENDED CLAIM

4. (Amended) The method of claim [2] 3, wherein the target peptide and the immunogenic portion of the therapeutic antigen each consist of from 8 to 14 amino acids.